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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,
10 Plaintiff,
11 v.
12 Joseph Menaged,
13 Defendant.
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No. CR-19-0352-01-PHX-DLR

FINDINGS AND RECOMMENDATION OF
THE MAGISTRATE JUDGE UPON A PLEA
OF GUILTY

15 TO THE HONORABLE DOUGLAS L. RAYES, UNITED STATES DISTRICT JUDGE.

16 Upon Defendant's request to enter a plea of guilty pursuant to Rule 11, of the Federal
17 Rules of Criminal Procedure, this matter came on for hearing before United States
18 Magistrate Judge Michelle H. Burns on January 30, 2020, with the written consents of
19 Defendant, counsel for Defendant, and counsel for the United States of America.

20 In consideration of that hearing and the statements made by the Defendant under
21 oath on the record and in the presence of counsel, and the remarks of the Assistant United
22 States Attorney and of counsel for Defendant,

23 **I FIND** as follows:

24 (1) that Defendant understands the nature of the charge to which Defendant pleads
25 and the elements of the offense(s) to which Defendant is pleading guilty;

26 (2) that Defendant understands the right to trial by jury, to persist in a plea of not
27 guilty, to the assistance of counsel, and appointed counsel if necessary at trial and at every
28 other stage of the proceeding, to confront and cross-examine adverse witnesses, to testify

1 and present evidence, to compel the attendance of witnesses and the right against
2 compelled self-incrimination;

3 (3) that Defendant understands the maximum possible penalty for the offense to
4 which Defendant is pleading guilty, including imprisonment, fine and supervised release,
5 and where applicable, any mandatory minimum penalty; that Defendant understands the
6 effect of the supervised release term; that Defendant understands the Court's authority to
7 order restitution and its obligation to impose a special assessment and any applicable
8 forfeiture;

9 (4) that Defendant understands the Court's obligation to calculate the applicable
10 sentencing guideline range and to consider that range, possible departures under the
11 Sentencing Guidelines, and other sentencing factors under 18 U.S.C. § 3553(a); and that
12 Defendant understands that the sentencing guidelines are advisory, not mandatory, and that
13 the Court may sentence outside those guidelines;

14 (5) that the plea of guilty by Defendant has been knowingly, intelligently, and
15 voluntarily made and is not the result of force or threats or of promises apart from the plea
16 agreement between the parties;

17 (6) that Defendant is competent to plead guilty;

18 (7) that Defendant understands that statements under oath may later be used in a
19 prosecution for perjury or false statements;

20 (8) that Defendant understands that by pleading guilty Defendant is waiving the
21 right to a jury trial;

22 (9) that Defendant understands the terms of any plea agreement provision waiving
23 the right to appeal or to collaterally attack the sentence, and has knowingly, intelligently,
24 and voluntarily waived those rights;

25 (10) that Defendant is satisfied with the representation provided by defense counsel;
26 and

27 (11) that there is a factual basis for Defendant's plea;

28 **I RECOMMEND** that the plea of Guilty be accepted.

ORDER

IT IS ORDERED that any objection to the guilty plea proceedings and any request for supplementation of those proceedings be made by the parties in writing and shall be specific as to the objection or request made. All objections or requests for supplementation shall be filed within fourteen (14) days of the date of service of a copy of these findings unless extended by an Order of the assigned district judge.

IT IS FURTHER ORDERED no more than ten (10) character letters shall be submitted by defense counsel in criminal cases, unless otherwise ordered by the court.

IT IS FURTHER ORDERED original letters must be submitted by defense counsel in paper form with the original to the U.S. Probation Office and copies to the sentencing judge and opposing counsel at least five (5) business days prior to the sentencing. Character letters shall not be mailed directly to the sentencing judge by any family members or other persons writing in support of the Defendant. Character letters or a notice of such shall not be filed electronically unless otherwise ordered by the court.

IT IS FURTHER ORDERED that any motions for upward departure, downward departure and sentencing memoranda must be filed, at least, seven (7) business days prior to the sentencing date. Responses are due three (3) business days prior to the sentencing date. Any motion to continue sentencing must be filed promptly upon discovery of the cause for continuance and must state the cause with specificity. Motions to continue sentencing filed less than fourteen (14) days before sentencing are disfavored. If either party intends to call a speaker at sentencing, other than the Defendant, counsel must notify the Courtroom Deputy at least three (3) business days in advance.

Dated this 31st day of January, 2020.



Honorable Michelle H. Burns
United States Magistrate Judge